

***APPENDIX B***  
***USFWS and NOAA Fisheries Coordination***







DEPARTMENT  
NEW ORLEANS DISTRICT  
P.O. BOX  
NEW ORLEANS, LO

OPTIONAL FORM 99 (7-90)

## FAX TRANSMITTAL

# of pages 1

To <i>Ms Kellen Smith</i>	From <i>David Walter</i>
Dept./Agency	Phone #
Fax #	Fax #

NSN 7540-01-317-7388

5099-101

GENERAL SERVICES ADMINISTRATION

FEB 20 2008

Environmental Planning and  
Compliance Branch  
Planning, Programs, and  
Project Management Division

James Boggs  
U.S. Fish and Wildlife Service  
Ecological Services  
646 Cajundome Blvd., Suite 400  
Lafayette, LA 70506

This project has been reviewed for effects to Federal trust resources under our jurisdiction and currently protected by the Endangered Species Act of 1973 (Act). The project, as proposed,

( ) Will have no effect on those resources

(x) Is not likely to adversely affect those resources.

This finding fulfills the requirements under Section 7(a)(2) of the Act.

*David Walter*  
Acting Supervisor  
Louisiana Field Office  
U.S. Fish and Wildlife Service  
Date *March 18, 2008*

Dear Mr. Boggs,

The U.S. Army Corps of Engineers, New Orleans District (CEMVN) intends to prepare a Supplemental Environmental Impact Statement (EIS) for the Inner Harbor Canal lock replacement project. A project location map is included as an enclosure.

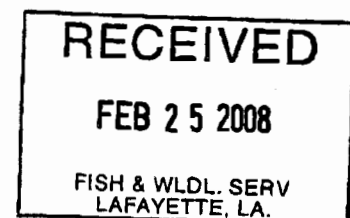
CEMVN is seeking to update threatened and endangered species consultation with the U.S. Fish and Wildlife Service as per Section 7 of the Endangered Species Act. CEMVN previously consulted with USFWS during preparation of the original EIS for this project. In a facsimile transmittal dated stamped October 9, 1996, USFWS concurred with CEMVN that proposed activities would not significantly affect listed or proposed threatened or endangered species. A copy of the facsimile is included as an enclosure.

We respectfully request concurrence with our determinations. Additionally, we will send you a copy of the Supplemental EIS when it is released to the public, which is currently anticipated to occur in July 2008. If you have any questions, please do not hesitate to call Ms. Kellen Smith at (504) 862-2347.

Sincerely,

*Elizabeth Wiggins*  
for Elizabeth Wiggins  
Chief, Environmental Planning  
and Compliance Branch

Enclosures: Request for Concurrence  
Project Location Map  
Facsimile Transmittal



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**DEPARTMENT OF THE ARMY**  
**NEW ORLEANS DISTRICT, CORPS OF ENGINEERS**  
**P.O. BOX 60267**  
**NEW ORLEANS, LA 70160-0267**

Environmental Planning and  
Compliance Branch  
Planning, Programs, and  
Project Management Division

**AUG 15 2008**

James Boggs  
U.S. Fish and Wildlife Service  
Ecological Services  
646 Cajundome Blvd., Suite 400  
Lafayette, LA 70506

Dear Mr. Boggs,

The U.S. Army Corps of Engineers, New Orleans District (CEMVN) intends to prepare a Supplemental Environmental Impact Statement for the Inner Harbor Canal (IHNC) lock replacement project. CEMVN began informal consultation with the U.S. Fish and Wildlife Service (USFWS) for the current project through a letter sent February 20, 2008. The USFWS requested reinitiation of consultation to acknowledge the possible occurrence of pallid sturgeon within the IHNC and possible interaction with the lock structure and associated valves. The purpose of this correspondence is to reinitiate the previous threatened and endangered species consultation with the USFWS as per Section 7 of the Endangered Species Act.

CEMVN has taken your comments into account and determined the proposed action is not likely to adversely affect pallid sturgeon due to the industrialized nature of the project area and the hydrodynamics of the IHNC. This determination is discussed in further detail in the enclosed document.

We respectfully request concurrence with our determinations. Additionally, we will send you a copy of the Supplemental EIS when it is released to the public. If you have any questions, please do not hesitate to call Ms. Kellen Smith at (504) 862-2347.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Wiggins", is written over the typed name.

Elizabeth Wiggins  
Chief, Environmental Planning and  
Compliance Branch

Enclosures: Request for Concurrence  
Project Location Map

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**Reinitiation of Previous Request for Threatened and Endangered Species  
Concurrence**

**15 August 2008**

**Subject:** Supplemental Environmental Impact Statement: Inner Harbor Navigation Canal (IHNC) Lock Replacement Project

**Purpose:** The U.S. Army Corps of Engineers, New Orleans District (CEMVN) began consultation with the U.S. Fish and Wildlife Service (USFWS) for the current project on February 20, 2008. On August 5, 2008, the USFWS requested reinitiation of consultation to cover the occurrence of pallid sturgeon in the vicinity of the proposed lock. The purpose of this consultation is to update and reinitiate the previous threatened and endangered species consultation with the USFWS as per Section 7 of the Endangered Species Act.

**Project Area:** The project area is located in Orleans and St. Bernard Parishes in southeastern Louisiana. The area is generally bounded by the Mississippi River Gulf Outlet (MRGO) and Gulf Intracoastal Waterway (GIWW) on the north, the Mississippi River on the south, Louisiana Highway 47/Paris Road on the east, and the hurricane protection floodwalls on the west bank of the IHNC on the west (See Figures 1 and 2).

**Description of the Project:** The U.S. Army Corps of Engineers, New Orleans District (CEMVN) is preparing a Supplemental Environmental Impact Statement (EIS) that addresses the potential impacts associated with the proposed replacement of the IHNC Lock located in New Orleans, Louisiana. The Lock connects the Mississippi River, the GIWW, MRGO and Lake Pontchartrain via the IHNC. The existing IHNC Lock is located between the St. Claude Avenue and Claiborne Avenue Bridges and was commissioned in 1923 to allow vessel traffic to move from the Mississippi River to Lake Pontchartrain and permit industrial development away from the Mississippi River. During World War II the GIWW was re-routed through the IHNC. Since the 1960s when the connection was made between the IHNC and MRGO, barge and ship traffic have greatly increased and the existing lock can no longer accommodate navigational needs efficiently through the IHNC.

The lock replacement project was authorized in Chapter 112 of the River and Harbors and Flood Control Act of 1956 and allowed for the construction of a new lock when the existing lock was determined to become obsolete. The project was reauthorized and cost sharing requirements established in the Water Resources Development Act (WRDA) of 1986, and a Community Impact Mitigation Plan was authorized by WRDA of 1996. In March 1998, CEMVN issued a Final EIS analyzing several alternatives and recommending the construction of a new lock north of the Claiborne Avenue Bridge, modification of the Claiborne Avenue Bridge, replacement of the St. Claude Avenue Bridge, extension of the Mississippi River flood protection levees and floodwalls, a socioeconomic mitigation plan, and a fish and wildlife mitigation plan. In 2007 the U.S. District Court Eastern District of Louisiana enjoined the project and directed CEMVN to

prepare a Supplemental EIS before proceeding with construction. Therefore, the Supplemental EIS is needed to update and supplement the 1998 Final EIS to determine if any significant changes are necessary to the project, and to ensure sufficient analysis of project impacts to the post-Hurricane Katrina environment.

The proposed action would construct a new lock 110 feet wide by 1,200 feet long by 36 feet deep, located north of Claiborne Avenue, using a pre-cast floated-in concrete technique. After construction of the new lock is completed, the existing lock would be demolished and material hauled away. In addition to the construction of a new lock, the proposed action would construct a temporary bridge at St. Claude Avenue while the existing St. Claude Avenue Bridge is replaced with a new low-level double bascule bridge; the Claiborne Avenue Bridge would be modified; lay areas would be constructed for vessels waiting to transit the lock; both a temporary navigation by-pass channel around the construction site of the new lock and a temporary navigation by-pass channel around the existing lock during demolition would be constructed; extensions of the Mississippi River flood protection and hurricane protection levees and floodwalls constructed; a detour road built through an undeveloped area in St. Bernard Parish to link St. Bernard Highway, Judge Perez Boulevard and Florida Avenue; a graving site utilized for the construction of the pre-cast concrete lock; and disposal of dredged material in confined disposal facilities and shallow open water environments to create wetlands based upon the level of contamination of the dredged material. The location of all of these proposed project components are shown on the attached project location map.

The replacement lock would be a miter gate lock consisting of massive concrete sides and bottom and large metal miter gates at each end of the lock, one on the canal side and one on the river side of the IHNC. After the gates of the lock are closed, the miter gates create a lift to carry the vessel up or down using the water enclosed in the lock. The vessel enters the lock chamber from the level side, generally the canal side of the IHNC, with the upstream gate closed. The downstream gate closes behind the vessel after it enters the lock. Gravity causes the water from the upper pool to flow back into the lock through the valves raising the water with the vessel until it fills the lock and raises water to the same level as the upper pool. To move a vessel from the higher elevation pool to the lower one, the procedure is reversed. With the downstream gate closed, the vessel moves into the lock chamber filled to the upper pool level. The upstream gate is closed behind the vessel and the water is permitted to drain out of the lock through the valves. The vessel is lowered with the level of water. When the level of water in the lock reaches that of the lower pool, the downstream miter gate is opened to allow the vessel to move out into the pool (USACE, 2008).

#### **Occurrence of Threatened or Endangered Species:**

##### ***Pallid Sturgeon***

The pallid sturgeon (*Scaphirhynchus albus*) only occurs in large rivers within the Mississippi and Missouri River Basins from Montana to Louisiana. This includes the Mississippi River and Atchafalaya River in south Louisiana. Pallid sturgeon tend to select main channel habitats in the Mississippi River. The species is long-lived and spawning is believed to occur between June and August. Larval fish drift downstream



from the hatching site and settle in the lower portion of the water column 11 to 17 days after hatching (USFWS 2007). Anthropogenic alterations to the Mississippi River such as bendway cutoffs, tributary impoundments and channel erosion have led to changes in deposition and erosion patterns potentially affecting pallid sturgeon populations (USFWS 2007). Pallid sturgeon commonly feed on benthic invertebrates (Hurley et al., 2004) where most production occurs in large river systems (Beamesderfer and Farr, 1997). Recent investigations by Dr. Jack Killgore of the Corp's Engineering Research and Development Center suggest that pallid sturgeon are not likely to be found in the Mississippi River in the vicinity of New Orleans and downstream. Whereas 144 trotlines set upstream from river kilometer 153 (mile 95, or about 2 miles upstream of the IHNC) to River kilometer 502 (vicinity of Old River) caught 44 pallid sturgeon, no pallid sturgeon were caught in 25 trotlines set below river kilometer 153 (Killgore et al. 2007).

The IHNC lock is located in a highly industrialized area of New Orleans. Navigation traffic regularly passes through the lock. The canal is outside of the main current of the Mississippi River and there is no strong current flowing through the canal. The floor and walls of the lock would be composed of concrete. Since pallid sturgeon feed on benthic invertebrates, they are not likely to occur or forage in areas where the natural water bottom has been altered. The valves that intake water when a vessel is locking through are covered with grates. In the unlikely event a pallid sturgeon occurs in the canal it is possible for it to be pulled against the grates. However, it is unlikely that a pallid sturgeon would be forced through the gates and into the valves during the intake of water.

Dredging, in-situ lock construction and modifications to the St. Claude and Claiborne Avenue Bridges would result in disturbance of substrates in the IHNC and would temporarily increase turbidity in the Mississippi River and shallow estuarine waters adjacent to the project area. Dredging could temporarily reduce the availability of forage items for the pallid sturgeon through the loss or damage of invertebrates and small fish. However, due to the industrialized nature of the lock and the concrete floor, pallid sturgeon would be unlikely to forage in the area. Further, the pallid sturgeon would forage and rest in unaffected areas at a sufficient distance from the project features as to cause no adverse impact during construction activities or when construction is complete.

**Conclusion:** Based upon the proposed construction activities for the IHNC lock replacement project and the industrialized nature of the project area and recommendations included in the USFWS Coordination Act Report, CEMVN has determined that dredging and lock construction activities would not likely adversely affect any threatened or endangered species in the project area.

## References

Beamesderfer, R.C.P. and R.A. Farr. 1997. Alternatives for the protection and restoration of sturgeons and their habitat. *Environmental Biology of Fishes*. 48: 407-417.

- Hurley, K.L. et al. 2004. Habitat use by middle Mississippi River pallid sturgeon. *Transactions of the American Fisheries Society*. 133: 1033-1041.
- Killgore, J. et al. 2007. Distribution, relative abundance and movement of pallid sturgeon in the free-flowing Mississippi River. *Journal of Applied Ichthyology*. 23: 476-483.
- USACE. 2008. Navigation, How Does a Lock Work? Little Rock District. <http://www.swl.usace.army.mil/navigation/lock.html>. June 18, 2008. Accessed on August 5, 2008.
- USFWS. 2007. Pallid Sturgeon, Five-Year Review, Summary and Evaluation. Pallid Sturgeon Recovery Coordinator, Billings, Monana. June 13, 2007.



Project Location Map

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# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

646 Cajundome Blvd.

Suite 400

Lafayette, Louisiana 70506

September 19, 2008



Colonel Alvin B. Lee  
District Commander  
U.S. Army Corps of Engineers  
Post Office Box 60267  
New Orleans, Louisiana 70160-0267

OPTIONAL FORM 99 (7-90)

### FAX TRANSMITTAL

# of pages ▶ 2

To <u>Kellen Smith</u>	From <u>David Walter</u>
Dept./Agency	Phone #
Fax #	Fax #

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

Dear Colonel Lee:

The Fish and Wildlife Service (Service) has reviewed the Corps of Engineers' (Corps) Biological Assessment (BA) addressing impacts to the endangered Pallid sturgeon (*Scaphirhynchus albus*) from construction associated with improvements to and operation of the Inner Harbor Canal lock. That document was transmitted by an August 15, 2008, letter from Mrs. Elizabeth Wiggins, Chief of your Environmental Planning and Compliance Branch. Additional information regarding lock operations that was originally requested by the Service and not included in the BA was transmitted by two electronic mails (i.e. emails) on September 15, 2008. The following comments are provided in accordance with the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The BA evaluates the impacts to the pallid sturgeon of the operation of the Corps' Inner Harbor Canal Lock, impacts associated with construction and operation of a new lock. The pallid sturgeon is an endangered fish found in Louisiana, in both the Mississippi and Atchafalaya Rivers (with known concentrations in the vicinity of the Old River Control Structure Complex); it is possibly found in the Red River as well. The pallid sturgeon is adapted to large, free-flowing, turbid rivers with a diverse assemblage of physical characteristics that are in a constant state of change. Detailed habitat requirements of this fish are not known, but it is believed to spawn in Louisiana. Habitat loss through river channelization and dams has adversely affected this species throughout its range.

The Service finds that the BA and subsequent emails adequately describes most of the known information on pallid sturgeon and provides an adequate description of the Corps operation of the lock and construction activities. The Service concurs with the Corps' determination that new lock construction activities (e.g., dredging, driving sheetpiles, etc.) and operation are "not likely to adversely affect" the pallid sturgeon. The Service's concurs with that determination for the construction activities because most construction activities, excluding the dredging of a bypass channel around the existing lock and disposal of dredged material in the Mississippi River will occur on the Lake Pontchartrain side of the lock, which is outside of the range of the pallid sturgeon. Depending on the direction from which the dredging of the bypass channel will occur (i.e., from Lake Pontchartrain or the Mississippi River) will determine if dredging occurs within the range of the pallid sturgeon. However, the existing lock is located within a man-made side channel approximately 2,000 feet from the river and that channel does not have any appreciable current except during the

**TAKE PRIDE  
IN AMERICA**

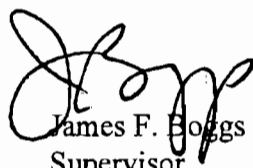


lockage of vessels, therefore the likelihood of sturgeon inhabiting that channel is unlikely. Furthermore, protective measures incorporated into the dredging plan to eliminate the potential take of Gulf sturgeon will further reduce the likelihood of a pallid sturgeon encountering a dredge.

The Service concurs that operation of the new lock also is "not likely to adversely affect" the pallid sturgeon because the new lock will be within the same channel, but an additional 1,300 from the existing lock. Therefore, there is little likelihood of a sturgeon encountering the lock or its intakes. If a sturgeon would encounter the intakes, grating across the lock intakes will reduce the risk of entrainment for sturgeon larger than six inches in length. Most sturgeon found in the Mississippi River in the vicinity of this project have been approximately 21 inches in length or larger. Velocities across the grating could result in the impingement of sturgeon that could not escape the intake velocities for a maximum duration of approximately 11 minutes. However, this time duration would only be experienced when vessels need to be lifted approximately 18 feet, which is estimated to occur approximately 20 percent of the time or less. More typical time durations for impingement based on lock filling time and intake velocities would range from approximately three to six minutes. However, escape speeds used to determine possible length of impingement were developed using fish no longer than 6 inches, therefore escape velocities of the larger pallid sturgeon found in the project vicinity could significantly reduce the impingement time such that it would not adversely affect the pallid sturgeon.

We appreciate the New Orleans District's efforts to aid in the recovery of the pallid sturgeon. If you or your staff have any questions regarding this letter, please have them contact David Walther of this office at (337) 291-3122.

Sincerely,



James F. Boggs  
Supervisor  
Louisiana Field Office

cc: LA Dept. of Wildlife and Fisheries, Inland Fisheries, Lake Charles, LA  
LA Dept. of Wildlife and Fisheries, Natural Heritage, Baton Rouge, LA



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 60267  
NEW ORLEANS, LA 70160-0267

Environmental Planning and  
Compliance Branch  
Planning, Programs, and  
Project Management Division

APR 10 2008

Mr. David Bernhart, Director  
National Marine Fisheries Service  
Protected Resources Division  
263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701

Dear Mr. Bernhart,

The U.S. Army Corps of Engineers, New Orleans District (CEMVN) intends to prepare a Supplemental Environmental Impact Statement (EIS) for the Inner Harbor Navigation Canal (IHNC) lock replacement project. A project location map is included as an enclosure.

CEMVN is seeking to update threatened and endangered species consultation with the National Marine Fisheries Service (NMFS) as per Section 7 of the Endangered Species Act. CEMVN previously consulted with NMFS during preparation of the original EIS for this project. In a letter dated May 24, 1989, NMFS concurred with CEMVN that no threatened or endangered species would be adversely affected by the proposed project. Concurrence was updated in a letter dated October 17, 1996. Copies of the letters are included as enclosures. It is expected that the current proposed project may affect, but is not likely to adversely affect any threatened or endangered species.

We respectfully request concurrence with our determinations. Additionally, we will send you a copy of the Supplemental EIS when it is released to the public, which is currently anticipated to occur in July 2008. If you have any questions, please do not hesitate to call Ms. Kellen Smith at (504) 862-2347.

Sincerely,

Elizabeth Wiggins  
Chief, Environmental Planning and  
Branch

Enclosures: Request for Concurrence  
Project Location Map  
Proposed New Graving Site Location Map  
Concurrence Letter Dated May 24, 1989  
Concurrence Letter Dated October 17, 1996

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## **Request for Threatened and Endangered Species Concurrence**

**10 April 2008**

**Subject:** Supplemental Environmental Impact Statement: Inner Harbor Navigation Canal (IHNC) Lock Replacement Project

**Purpose:** To update threatened and endangered species consultation with the National Marine Fisheries Service (NMFS) as per Section 7 of the Endangered Species Act.

**Project Area:** The project area is located in Orleans and St. Bernard Parishes in southeastern Louisiana. The area is generally bounded by the Mississippi River Gulf Outlet (MRGO) and Gulf Intracoastal Waterway (GIWW) on the north, the Mississippi River on the south, Louisiana Highway 47/Paris Road on the east, and the hurricane protection floodwalls on the west bank of the IHNC on the west (see attached figure).

**Description of the Project:** The U.S. Army Corps of Engineers, New Orleans District (CEMVN) is preparing a Supplemental Environmental Impact Statement (EIS) that addresses the potential impacts associated with the proposed replacement of the IHNC Lock located in New Orleans, Louisiana. The Lock connects the Mississippi River, the GIWW, MRGO and Lake Pontchartrain via the IHNC. The existing IHNC Lock is located between the St. Claude Avenue and Claiborne Avenue Bridges and was commissioned in 1923 to allow vessel traffic to move from the Mississippi River to Lake Pontchartrain and permit industrial development away from the Mississippi River. During World War II the GIWW was re-routed through the IHNC. Since the 1960s when the connection was made between the IHNC and MRGO, barge and ship traffic have greatly increased and the existing lock can no longer accommodate navigational needs efficiently through the IHNC.

The lock replacement project was authorized in Chapter 112 of the River and Harbors and Flood Control Act of 1956 and allowed for the construction of a new lock when the existing lock was determined to become obsolete. The project was reauthorized and cost sharing requirements established in the Water Resources Development Act (WRDA) of 1986, and a Community Impact Mitigation Plan was authorized by WRDA of 1996. In March 1998, CEMVN issued a Final EIS analyzing several alternatives and recommending the construction of a new lock north of the Claiborne Avenue Bridge, modification of the Claiborne Avenue Bridge, replacement of the St. Claude Avenue Bridge, extension of the Mississippi River flood protection levees and floodwalls, a socioeconomic mitigation plan, and a fish and wildlife mitigation plan. In 2007, the U.S. District Court Eastern District of Louisiana enjoined the project and directed CEMVN to prepare a Supplemental EIS before proceeding with construction. Therefore, the Supplemental EIS is needed to update and supplement the 1998 Final EIS to determine if any significant changes are necessary to the project, and to ensure sufficient analysis of project impacts to the post-Hurricane Katrina environment.

The proposed action would consist of construction of a new lock 110 feet wide by 1,200 feet long by 36 feet deep, located north of Claiborne Avenue, using a pre-cast floated-in concrete technique. After construction of the new lock is completed, the existing lock would be demolished and material hauled away. In addition to the construction of a new lock, the proposed action would construct a temporary bridge at St. Claude Avenue while the existing St. Claude Avenue Bridge is replaced with a new low-level double bascule bridge; the Claiborne Avenue Bridge would be modified; lay areas would be constructed for vessels waiting to transit the lock; both a temporary navigation by-pass channel around the construction site of the new lock and a temporary navigation by-pass channel around the existing lock during demolition would be constructed; extensions of the Mississippi River flood protection and hurricane protection levees and floodwalls constructed; a detour road built through an undeveloped area in St. Bernard Parish to link St. Bernard Highway, Judge Perez Boulevard and Florida Avenue; a graving site utilized for the construction of the pre-cast concrete lock; and disposal of dredged material in confined disposal facilities and shallow open water environments to create wetlands based upon the level of contamination of the dredged material. The location of all of these proposed project components are shown on the attached "Project Location Map". The second map, entitled "Proposed New Graving Site", shows the most current location of the proposed graving site.

**Occurrence of Threatened and Endangered Species:** In a letter dated March 29, 1989, the NMFS supplied a list of endangered and threatened species which might occur in the vicinity of the proposed project. The list included the green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricate*), Kemp's ridley (*Lepidochelys kempi*), leatherback (*Dermochelys coriacea*), and loggerhead (*Caretta caretta*) sea turtles and the finback (*Balaenoptera physalus*), sei (*Balaenoptera borealis*), blue (*Balaenoptera musculus*) and sperm whales (*Physeter macrocephalus*). A biological assessment (BA) was prepared for these species and submitted to the NMFS on May 9, 1989. The BA concluded that it would be unlikely for the proposed project to have an impact on any of the listed species. In a letter dated May 24, 1989, the NMFS concurred with the determination that populations of endangered/threatened species under their purview would not be adversely affected by the proposed project. A copy of the 1989 letter is included as an enclosure. In October 1996, CEMVN requested the NMFS update the endangered and threatened species consultation. Information concerning the plans under consideration was provided to the NMFS, including the proposed graving site. The NMFS responded that the proposed activities would not adversely affect listed or proposed threatened or endangered species. A copy of the 1996 letter is included as an enclosure.

Green sea turtles (*Chelonia mydas*) were listed as threatened on July 28, 1978 (43 FR 32800-32811). Green sea turtles occupy three habitat types: high energy oceanic beaches (nesting), convergence zones in pelagic habitat (juvenile foraging), and benthic feeding grounds in relatively shallow, protected waters (adult foraging) (USFWS 1993). Common adult foraging habitats are pastures of seagrasses and algae, but small green turtles can also be found over coral reefs, worm reefs, and rocky bottoms. In the southeastern U.S., green sea turtles nest primarily in Florida from June to September (LDWF 2007a).

The hawksbill sea turtle was listed as endangered on April 14, 1970 (35 FR 6069). Hawksbill sea turtle adults average about 2.5 feet in length and weigh between 95 to 165 pounds (USFWS 1993). Hawksbill sea turtles nest on low and high-energy beaches in tropical oceans of the world. Hawksbill sea turtles may occur offshore of Louisiana, but other than isolated strandings, beaches within Louisiana are not utilized by these turtles. In Louisiana and other coastal portions of the Gulf of Mexico, this is one of the most infrequently encountered sea turtles (LDWF 2007a).

Leatherback sea turtles were first listed as endangered on June 2, 1970 (35 FR 6069). The leatherback sea turtle nests on the shores of the Atlantic, Pacific, and Indian Oceans. The adult leatherback can reach 6.5 feet in length and 500 to 2,000 pounds in weight and is commonly found in cool, as well as in subtropical-tropical waters (NOAA Fisheries 2006a). Although it is generally a deep-diving oceanic species that forages on gelatinous planktonic animals, leatherbacks seasonally move into coastal waters, including estuaries and coastal bays, to feed on large jellyfish associated with rivers and frontal boundaries. Small numbers of leatherback sea turtles nest on barrier islands and mainland beaches in the northeastern Gulf of Mexico (LDWF 2007a).

Loggerhead sea turtles were listed as threatened on July 28, 1978 (43 FR 32800-32811). Loggerhead sea turtles are found in temperate and tropical waters worldwide. Following a 1 to 2-year pelagic stage, adults inhabit nearshore continental shelf and estuarine environments in the Atlantic, Pacific, and Indian Oceans (NOAA Fisheries 2006b). Loggerhead sea turtles generally nest on high- to moderate-energy beaches and may favor steeply sloped beaches with gradually sloped offshore approaches. Loggerhead sea turtle nests are common on the northeastern Gulf of Mexico coasts of Alabama and Florida and the second-largest population of this species in the world nests on Florida's east coast. In Louisiana, loggerhead sea turtles are found throughout the coastal region but nesting has only been recorded on the Chandeleur Islands (LDWF 2007a).

The Kemp's ridley sea turtle was listed as endangered on December 2, 1970 (35 FR 18319) and is found only in the Gulf of Mexico and North Atlantic Ocean, north of the Caribbean Sea. This is the smallest species of Atlantic Ocean sea turtles and has a single primary nesting area along a 10-mile stretch of beach near Rancho Nuevo, on the Gulf of Mexico coast of Mexico where large aggregations of nesting females come ashore together. Occasional nesting has been reported along the Texas, Alabama, and Florida coasts. Crustaceans, especially crabs, are reported to be its preferred food, and both juveniles and adults are found in nearshore waters, including estuaries, tidal rivers, and sea grass beds throughout the northern Gulf of Mexico. The once critically small population of Kemp's ridley sea turtle has increased in recent years due to management programs of the USFWS and the NOAA Fisheries. Although it is not known to nest in Louisiana, the offshore waters may afford key feeding and development sites and the Kemp's ridley sea turtle is more frequently observed in Louisiana's inshore waters than other sea turtles (LDWF 2007a).

Finback whales are present in the Gulf of Mexico throughout the year which could suggest a somewhat isolated population. Four recorded strandings have occurred along the southeast coast of Louisiana. Sei whales have only been recorded four times in the Gulf of Mexico. Two of these recordings occurred in Louisiana; one near Fort Bayou in Plaquemines, Parish in 1956 and one from Marsh Island in 1990. There are two records of blue whales in the Gulf of Mexico; one occurred when a stranded individual was found near the mouth of Sabine Pass, Cameron Parish, Louisiana in December 1924. Sperm whales are generally found beyond the continental shelf in the Gulf of Mexico the majority of sightings occurred from beyond the 1,000 fathom line. Strandings of individuals have been recorded from Cameron, Terrebonne, and Plaquemines Parishes (LDWF 2007b).

**Potential for Project Impacts to Threatened and Endangered Species:** According to the Louisiana Department of Wildlife and Fisheries, hawksbill sea turtles are rarely encountered in Louisiana or along the coasts of the Gulf of Mexico. Loggerhead sea turtles, the Kemp's ridley sea turtle, and the green sea turtle have been sighted in the MRGO in the vicinity of the bar channel where the MRGO connects to the Gulf of Mexico. Construction in the project area would be conducted well above the bar channel, therefore, it is highly unlikely any sea turtles would be impacted as a result of the project. There is no suitable habitat for sea turtles in the proposed project area. Since all species of threatened and endangered whales tend to occur well beyond the coastal area in the Gulf of Mexico, the proposed project is not likely to adversely affect any whale species.

There are no substantial differences in the proposed project as described by the 1989 and 1996 Section 7 consultations. The types and location of proposed activities associated with the lock replacement project remain relatively unchanged. The proposed graving site has been relocated as reflected in the second enclosure. Therefore, due to the developed and industrialized nature of the project area, dredging of the IHNC, construction of the new lock, demolition of the old lock, construction of the graving site and placement of dredged materials in the confined disposal facility and marsh creation areas are not likely to adversely affect threatened or endangered species. CEMVN determined that no Gulf sturgeon critical habitat exists within the project area. Gulf sturgeon (*Acipenser oxyrinchus desotoi*) critical habitat unit 8 includes the eastern portion of Lake Pontchartrain east of the causeway, all of Little Lake, the Rigolets, Lake St. Catherine, Lake Borgne, and the Mississippi Sound. The project area is west of the critical habitat and CEMVN determined that no Gulf sturgeon critical habitat exists within the project area. Additionally, CEMVN has reinitiated consultation pursuant to Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service in regard to other listed species including the threatened Gulf sturgeon and the endangered pallid sturgeon (*Scaphirhynchus albus*). Due to the developed and industrialized nature of the project area (IHNC, GIWW and MRGO), the project corridor provides low quality habitat for threatened and endangered species under the purview of NMFS, and CEMVN believes the proposed project would not likely adversely affect any species under your purview. The graving site, mitigation site, and MRGO disposal site have been heavily impacted by human activities and are not particularly vulnerable or unique.

**Conclusion:** Based upon the proposed construction activities for the IHNC lock replacement project and mitigation measures to be implemented during construction, CEMVN has determined that dredging and lock construction activities would not likely adversely affect any threatened or endangered species under the purview of the NMFS in the project area.

References:

LDWF 2007a. Rare Animals of Louisiana, Green Sea Turtle (*Chelonia mydas*); Hawksbill Sea Turtle (*Eretmochelys imbricata*); Kemp's Ridley Sea Turtle (*Lepidochelys kempii*); Leatherback Sea Turtle (*dermochelys coriacea*); and Loggerhead Sea Turtle (*Caretta caretta*). Louisiana Department of Wildlife and Fisheries, Louisiana National Heritage Program.

LDWF 2007b. Rare Animals of Louisiana, Blue Whale (*Balaenoptera musculus*); Finback Whale (*Balaenoptera physalus*); Sei Whale (*Balaenoptera borealis*); Sperm Whale (*Physeter macrocephalus*). Louisiana Department of Wildlife and Fisheries, Louisiana National Heritage Program.

NOAA Fisheries 2006a. Office of Protected Resources, Leatherback Sea Turtle Fact Sheet, <http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm>

NOAA Fisheries 2006b. Office of Protected Resources, Loggerhead Sea Turtle Fact Sheet, <http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm>

USFWS 1993. Working Draft, Region 4, Template for Biological Opinions on Beach Nourishment Activities that May Affect Sea Turtles.

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**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southeast Regional Office  
263 13<sup>TH</sup> Avenue South  
St. Petersburg, FL 33701  
(727) 824-5312, FAX 824-5309  
<http://sero.nmfs.noaa.gov>

**MAY 27 2008**

F/SER32:CH

Ms. Elizabeth Wiggins  
Chief, Environmental Planning  
New Orleans District, Corps of Engineers  
P.O. Box 60267  
New Orleans, LA 70160

Re: Inner Harbor Navigation Canal lock replacement project

Dear Ms. Wiggins:

This responds to the U.S. Army Corps of Engineers, Jacksonville District's (COE), April 10, 2008, request for section 7 consultation on the proposed dredging of the Inner Harbor Navigation Canal, removal of the existing lock, construction and relocation of a new lock, construction of a graving site, placement of dredged materials in the confined disposal facility, and the possible creation of wetland areas using dredge spoil in Orleans and St. Bernard Parishes in southeast Louisiana. You determined the proposed action "would not likely adversely affect any threatened or endangered species under the preview of the NMFS in the project area" and requested our concurrence with your findings, pursuant to section 7 of the Endangered Species Act (ESA).

The project area is located in Orleans and Bernard Parishes in southeastern Louisiana. The area is bounded by the Mississippi River Gulf Outlet and Gulf Intracoastal Waterway. The project includes construction of a new lock 110 ft wide by 1,200 ft long by 36 ft deep, demolition of the existing lock, construction of a temporary bridge, replacement of an existing bridge, construction of lay areas for vessels waiting to transit the lock, installation of a temporary navigation by-pass channel around the construction site of the new lock and the existing lock during demolition, construction of Mississippi River floodwall protection extensions and hurricane protection levees, and possible wetland creation.

Five species of sea turtles (green, leatherback, hawksbill, loggerhead, and Kemp's ridley) and Gulf sturgeon protected by the ESA may occur in the action area and may be affected by the proposed project. Consultation responsibility for Gulf sturgeon in marine or estuarine waters rests with NMFS, not the U.S. Fish and Wildlife Service. Additionally, Gulf sturgeon designated critical habitat (Unit 8) is located near the project area.

You stated in your letter that there are no substantial differences in the proposed project as described by the 1989 and 1996 section 7 consultations. Critical habitat for Gulf



sturgeon was designated in 2003, subsequent to those prior consultations. You determined that no Gulf sturgeon critical habitat exists within the project area. However, your letter did not address whether Gulf sturgeon critical habitat may be indirectly affected by the project (e.g., potentially contaminated turbidity entering designated critical habitat Unit 8). Please conduct an effects analysis for Gulf sturgeon potentially present in the action area, and please address any potential indirect effects (e.g., vessel traffic and contaminants) to critical habitat resulting from the proposed project. If there are no effects, reinitiation of consultation for this project may not be necessary. Please see reinitiation requirements of 50 CFR 402.16. .

If you have any questions, please contact Calusa Horn, Fisheries Biologist, at (727) 824-5312, or by e-mail at [calusa.horn@noaa.gov](mailto:calusa.horn@noaa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "D. Bernhart", with a long horizontal flourish extending to the right.

David M. Bernhart  
Assistant Regional Administrator  
for Protected Resources

File: 1514-22 F.1 NO  
Ref: T/SER/2008/02424





**DEPARTMENT OF THE ARMY**  
**NEW ORLEANS DISTRICT, CORPS OF ENGINEERS**  
**P.O. BOX 60267**  
**NEW ORLEANS, LA 70160-0267**

Environmental Planning and  
Compliance Branch  
Planning, Programs, and  
Project Management Division

Mr. David Bernhart, Director  
National Marine Fisheries Service  
Protected Resources Division  
263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701  
ATTN: Calusa Horn

**JUL 11 2008**

Dear Mr. Bernhart:

The U.S. Army Corps of Engineers, New Orleans District (CEMVN) intends to prepare a Supplemental Environmental Impact Statement (EIS) for the Inner Harbor Navigation Canal (IHNC) lock replacement project. CEMVN began informal consultation with the National Marine Fisheries Service (NMFS) for the current project through a letter sent on April 10, 2008. In a letter with the assigned reference number T/SER/2008/02424 and dated May 27, 2008, the NMFS requested reinitiation of consultation to acknowledge the possible occurrence of Gulf sturgeon and associated critical habitat in the vicinity of the project area. The purpose of this correspondence is to reinitiate the previous threatened and endangered species consultation with the NMFS as per Section 7 of the Endangered Species Act.

The Lock connects the Mississippi River, the GIWW, MRGO and Lake Pontchartrain via the IHNC. Both the GIWW and the MRGO are man made channels. The existing IHNC Lock is located between the St. Claude Avenue and Claiborne Avenue Bridges. Project location maps are included as enclosures. The proposed action would involve construction of a new lock 110 feet wide by 1,200 feet long by 36 feet deep, located north of Claiborne Avenue, using a pre-cast floated-in concrete technique. After construction of the new lock is completed, the existing lock would be demolished and material hauled away. In addition to the construction of a new lock, the proposed action would construct a temporary bridge at St. Claude Avenue while the existing St. Claude Avenue Bridge is replaced with a new low-level double bascule bridge; the Claiborne Avenue Bridge would be modified; lay areas would be constructed for vessels waiting to transit the lock; both a temporary navigation by-pass channel around the construction site of the new lock and a temporary navigation by-pass channel around the existing lock during demolition would be constructed; extensions of the Mississippi River flood protection and hurricane protection levees and floodwalls constructed; a graving site utilized for the construction

of the pre-cast concrete lock; and disposal of dredged material in confined disposal facilities and shallow open water environments to create wetlands based upon the level of contamination of the dredged material. The locations of all proposed project components are shown on the attached project location map.

The areas in the immediate vicinity of the IHNC and the proposed project area have historically been developed for industrial, commercial, and residential usage throughout the twentieth century. The banks of the IHNC were historically lined with industrial facilities and wharves built to process goods shipped to the IHNC. Many facilities were removed and the banks were cleaned of industrial residues. The majority of the land in the vicinity and along the IHNC has already experienced a large amount of industrialization and what has remained undeveloped has been used as an upland disposal area in the past and contains old fill material. No wetlands exist along the banks of the IHNC. The channel is inland and is protected to a large degree from coastal erosive forces.

CEMVN has taken your comments into account and determined that the proposed action would have no effect on Gulf sturgeon or their critical habitat due to the industrialized nature of the project area, the hydrodynamics within the IHNC, and the distance from the project area and dredging locations to Lake Pontchartrain, Lake Borgne, and designated critical habitat Unit 8. In addition, use of the upper reaches of the MRGO by Gulf sturgeon in the vicinity of the proposed graving site has not been observed nor is it expected due to the available habitat and conditions in the area. We respectfully request concurrence with our determinations. Additionally, we will send you a copy of the Supplemental EIS when it is released to the public. If you have any questions, please do not hesitate to call Ms. Kellen Smith at (504) 862-2347.

Sincerely,

/s/

Elizabeth Wiggins  
Chief, Environmental Planning and  
Compliance Branch

Enclosures: Project Location Maps